

COMMENTS OF THE RETAIL ENERGY SUPPLY ASSOCIATION ON THE ILLINOIS POWER AGENCY'S DRAFT 2013 POWER PROCUREMENT PLAN

I. INTRODUCTION

The Retail Energy Supply Association (“RESA”) is a broad and diverse group of retail energy suppliers who share the common vision that competitive retail energy markets deliver a more efficient, customer-oriented outcome than a regulated utility structure. RESA is devoted to working with all stakeholders to promote vibrant and sustainable competitive retail energy markets for residential, commercial and industrial consumers.¹ RESA was an active participant in Ill. C. C. Docket 11-0660, in which the Illinois Commerce Commission (“Commission”) entered its order approving, with modifications, the 2012 procurement plan of the Illinois Power Agency (“IPA”). RESA appreciates the opportunity to file comments on the IPA’s Draft 2013 Power Procurement Plan, dated August 15, 2012 (the “2013 Draft Plan”).

In its comments on past procurement plans, RESA has addressed the need for more market reflective pricing, including the use of multiple procurement events; the need for caution in the procurement of renewable energy; and the need for improvements in the procurement process in order to accelerate the notice of new default prices by the utilities. RESA agrees with IPA that due the current oversupply situation, as well as uncertainty relating to the retail customer base of the utilities, there is no need to procure additional energy products, including

¹ RESA’s members include: Champion Energy Services, LLC; ConEdison *Solutions*; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; Energetix, Inc; Energy Plus Holdings, LLC; Exelon Energy Company; GDF SUEZ Energy Resources NA, Inc.; Green Mountain Energy Company; Hess Corporation; Integrys Energy Services, Inc.; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; PPL EnergyPlus, LLC; Reliant; Stream Energy; TransCanada Power Marketing Ltd.; and TriEagle Energy, L.P.. The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA.

renewable energy products. Given the lack of procurement events in the Draft Plan, RESA's Comments are limited to one issue: sourcing agreements with the FutureGen Alliance ("FutureGen").

II. FUTUREGEN

The 2013 Draft Plan notes that there is not currently an "initial clean coal facility", as defined in Section 1-75 (d) of the IPA Act, for the IPA to consider; therefore, the 2013 Draft Plan focuses on the repowered/retrofitted clean coal facility, popularly known as "FutureGen 2.0".

Appendix III to the 2013 Draft Plan is a power point presentation that was made by FutureGen at the Illinois Commerce Commission's ("Commission") March 6, 2012 Electric Policy Committee Meeting, which describes the FutureGen 2.0 project. Basically, FutureGen 2.0 is the retrofitting and repowering of one unit at the Ameren Energy Resources' Meredosia Plant in Morgan County, near Jacksonville, Illinois, which was formerly owned by Ameren Illinois Company. It is to be developed as 166 MW coal-fueled generation, with a targeted date to begin commercial operation in 2017, and a 30 year life.

The IPA notes that 2017 is the fifth and last year of the planning horizon for the 2013 Draft Plan and that while its procurement plans typically focus on the first three years of the plan, "inclusion of the FutureGen sourcing agreement in this year's procurement plan is appropriate so that financing for the unfunded portion of the project can be secured and to allow pre-commercial operation date work on the project to proceed". (IPA Draft Plan, p. 73) A copy of the sourcing agreement proposed by FutureGen is Appendix IV to the 2013 Draft Plan.

The 2013 Draft Plan states, with regard to a repowered/retrofitted clean coal facility, the IPA Act requires that during the procurement planning process, the IPA “consider sourcing agreements covering electricity generated by power plants that were previously owned by Illinois utilities and that been or will be converted into clean coal facilities”. (Section 1-75 (d) (5) of the IPA Act) The 2013 Draft Plan states that consideration during the procurement process specifically includes the following step: “the owners of such facilities may propose to the [IPA] sourcing agreements with utilities and alternative retail electric suppliers required to comply with Section (d) of this Section and item (5) of Subsection (d) of Section 16-115 of the Public Utilities Act, covering electricity generated by such facilities. (*Id.*) Section 1-75 (d) (5) of the IPA Act also states that the IPA and the Commission may approve utility sourcing agreements that do not exceed certain cost-based benchmarks.

The 2013 Draft Plan states that FutureGen has proposed to the IPA a sourcing agreement (Appendix IV to the 2013 Draft Plan), which the IPA will be submitting for Commission approval. The 2013 Draft Plan notes that during stakeholder meetings regarding the sourcing agreement, parties reserved their right to contest whether they may be bound by a Commission-approved sourcing agreement. The IPA states that it defers to the Commission and interested parties as to the most appropriate proceeding for this question, if raised, to be litigated.

RESA’s position is the authority for Alternative Retail Electric Suppliers (“ARES”) being bound by a Commission-approved sourcing agreement is far from clear. RESA believes that the proceeding that will result when the IPA files its procurement plan by September 28, 2012 is the appropriate proceeding to address the issue of whether ARES can be bound by a Commission-approved sourcing agreement. Moreover, because the IPA is apparently planning to submit the FutureGen sourcing agreement to the Commission for its approval, RESA believes

that it is critical at this time that the IPA, in its procurement plan filed with the Commission by September 28, 2012, should state its position as to whether ARES would be bound to enter into a Commission-approved sourcing agreement and provide an analysis supporting its position.

III. CONCLUSION

RESA commends the IPA for its 2013 Draft Plan, particularly in response to the current oversupply situation and the uncertainty of the utilities' retail customer base, and appreciates the opportunity to submit these Comments. However, before offering a sourcing agreement for Commission approval, the IPA should state its position as to whether ARES would be required to enter into a Commission-approved sourcing agreement and provide an analysis supporting its position.

Respectfully submitted,

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